LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6505 | **NOTE PREPARED:** Dec 16, 2010
BILL NUMBER: SB 148 | **BILL AMENDED:**

SUBJECT: Inheritance Tax and Estate Tax.

FIRST AUTHOR: Sen. Banks | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: <u>X</u> **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

<u>Summary of Legislation:</u> This bill phases out the Inheritance Tax beginning July 1, 2013, by giving an increasing credit against the inheritance tax due. It provides that the Inheritance Tax does not apply to the transfer of property interests by a decedent whose death occurs after June 30, 2018. It phases out payments of the Inheritance Tax replacement amount to counties over a period between 2013 and 2018. The bill also provides that the Estate Tax and Generation Skipping Transfer Tax do not apply after June 30, 2018, and makes technical corrections.

<u>Effective Date:</u> July 1, 2011.

<u>Explanation of State Expenditures:</u> *Department of State Revenue (DOR)*: If the Inheritance Tax ceases to apply to property and estates of those who die after June 30, 2018, there could be a savings to the state from a reduction in staff of the Inheritance Tax section of the DOR. The November 1, 2010, state staffing table indicates that the Inheritance Tax Division has eight full-time employees with a total annual salary of $284,962. Since staff will be needed to process returns during the phaseout of the Inheritance Tax, a specific savings due to staff reductions could not be estimated.

<u>Explanation of State Revenues:</u> *<u>Summary</u>* - The bill would lead to progressively larger reductions in Inheritance Tax revenues from FY 2015 through FY 2020 when the tax would be eliminated and no longer generating revenue. The bill also provides a phaseout of the county guarantee beginning in FY 2014 and ending FY 2019. This phaseout will provide additional revenue to the state General Fund. The impact on revenues from the phaseout of the Inheritance Tax and the county guarantee is shown in the table below

Fiscal Year Impact	Inheritance Tax Revenue Loss	County Guarantee Phaseout	Net Increase (Decrease)
2014	0	$2.2 M	$2.2 M
2015	($40.5 M)	$3.0 M	($37.5 M)
2016	($54.0 M)	$3.7 M	($50.3 M)
2017	($67.5 M)	$4.5 M	($63.0 M)
2018	($81.0 M)	$5.6 M	($75.4 M)
2019	($101.3 M)	$7.4 M	($93.8 M)
2020 and after	($135.0 M)	$7.4 M	($127.6 M)
Note: Rows may not sum due to rounding.			

The bill also provides that the Estate Tax and Generation Skipping Transfer Tax do not apply after June 30, 2018. The bill could potentially have the following impacts on state revenues:

(1) Elimination of potential future revenue from the Indiana Estate Tax, depending upon actions by the U.S. Congress. It is unknown whether the U.S. Congress will make the repeal of the Federal Estate Tax and the state death tax credit pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) permanent or whether the Federal Estate Tax will be amended. The potential future revenue loss depends on whether Congress acts to make the repeal of the Federal Estate Tax permanent, but could total as much as $20 M to $25 M based on annual Estate Tax collections immediately prior to the federal law changes.

(2) Elimination of potential future revenue from the Indiana Generation Skipping Transfer Tax under the same circumstances as the Indiana Estate Tax. The revenue loss from elimination of the Generation Skipping Transfer Tax would be minimal. Since FY 1993, the tax reportedly generated no revenue except in FY 2004 ($31,254) and FY 2005 ($3,637).

<u>Background Information</u> - The bill phases out the Inheritance Tax over a six-year period specified in the table below by providing an increasing credit against a beneficiary's Inheritance Tax liability. The credit would apply to transfers made by persons who die within the dates specified in the following table. Since the Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early payment discount), the bulk of the impact of the first year's credit (equal to 15%) would not be experienced until FY 2015.

Inheritance Tax Credit	Transfers made from persons dying . . .
30%	After June 30, 2013, and before July 1, 2014
40%	After June 30, 2014, and before July 1, 2015
50%	After June 30, 2015, and before July 1, 2016
60%	After June 30, 2016, and before July 1, 2017
75%	After June 30, 2017, and before July 1, 2018
100%	After June 30, 2018

The estimated impact of the phaseout of the Inheritance Tax is based on the Revenue Technical Committee's FY 2012 forecast (published December 15, 2010). This forecast estimates FY 2012 Inheritance Tax at $135 M. The estimated revenue loss from the exemption assumes that Inheritance Tax revenues would remain relatively constant in the future, absent the phaseout.

Under current Indiana statutes, Indiana Estate Tax is owed on the assets of an estate if: (1) Federal Estate Tax is owed on the estate; and (2) the Indiana portion of the state death tax credit applicable to the Federal Estate Tax exceeds the total Indiana Inheritance Tax paid by transferees of the estate. The Indiana Estate Tax is equal to the difference between the state death tax credit under the Federal Estate Tax and the Indiana Inheritance Tax. However, under EGTRRA, the state death tax credit was eliminated for estates of decedents who died after December 31, 2004. However, all the federal law changes, including the repeal of the Federal Estate Tax are scheduled to sunset on December 31, 2010. Absent any changes to the Federal Estate Tax by the U.S. Congress, the Federal Estate Tax as it was in 2001 would be in effect for estates of decedents who die after December 31, 2010. This would include the state death tax credit, which is the basis for the Indiana Estate Tax and would make the Indiana Estate Tax operative again.

Like the Indiana Estate Tax, the Indiana Generation Skipping Transfer Tax is also linked to the federal version of the tax via the federal Generation Skipping Transfer Tax credit. The federal Generation Skipping Transfer Tax was also repealed under EGTRRA, and the repeal will sunset on December 31, 2010.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Summary* - The phaseout of the Inheritance Tax and the county guarantee could result in an annual revenue loss to counties beginning in FY 2014.

Fiscal Year Impact	Local Share of Inheritance Tax Revenue Loss	Loss from County Guarantee Phaseout	Net Increase (Decrease)
2014	0	($2.2 M)	($2.2 M)
2015	($3.5 M)	($3.0 M)	($6.5 M)
2016	($4.7 M)	($3.7 M)	($8.4 M)
2017	($5.8 M)	($4.5 M)	($10.3 M)
2018	($7.0 M)	($5.6 M)	($12.6 M)
2019	($8.7 M)	($7.4 M)	($16.2 M)
2020 and after	($11.6 M)	($7.4 M)	($19.1 M)
Note: Rows may not sum due to rounding.			

Background Information - This bill provides a phaseout of the county guarantee beginning in FY 2014 and ending before FY 2019. Counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents. Counties are guaranteed a statutorily determined amount as determined by the replacement provision established by P.L. 254-1997. The replacement provision was established to replace county Inheritance Tax revenue lost when the Class A exemption was increased on July 1, 1997. The replacement provision guarantees that each county receives Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997, excluding the highest and lowest years. The total annual guarantee to counties is approximately $7.4 M, with replacement payments averaging about $168,000 since FY 2000.

State Agencies Affected: DOR.

Local Agencies Affected: Counties.

Information Sources: State Revenue Forecast (December 15, 2010); *Quarterly Inheritance Tax Reports*, FY 1993- FY 2010.

Fiscal Analyst: Jessica Harmon, 317-232-9854.